IN THE CIRCUIT COURT OF PIKE COUNTY, ALABAMA

STATE OF ALABAMA, *
*
PLAINTIFF, * CASE NO.: CC 2005-162
* CC 2005-163
VS. * CC 2005-164
*
JOHNNY FENN, *
*
DEFENDANT. *
*

SENTENCE ORDER

Defendant, Johnny Fenn, appeared before the Court and was represented by Brandon Coots, Attorney at Law. The State of Alabama was represented by S. J. Harrison, Assistant District Attorney for the Twelfth Judicial Circuit, State of Alabama.

In Case Number CC 2005-162 the Assistant District Attorney moved to reduce the charge against the Defendant from Theft First Degree to Unauthorized Use of a Motor Vehicle in violation of Title 13A-8-11 of the Code of Alabama, 1975. With no objection from and with the consent of the Defendant, the State's Motion is **GRANTED.**

At Defendant's request, the Defendant was allowed to withdraw Defendant's earlier plea and to be re-arraigned.

On arraignment, Defendant entered a plea of ***GUILTY*** in:

1. Case Number CC 2005-162 to Unauthorized Use of a Motor Vehicle in violation of Title 13A-8-11 of the Code of Alabama, 1975, as charged in Offense 1 of the indictment as reduced;
2. Case Numbers CC 2005-163 and Case Number CC 2005-164, **in each case**, to Assault Second Degree, **each** in violation of Title 13A-6-21 of the Code of Alabama, 1975, as charged in Offense 2 and 3 of the indictment.

The Court conducted a colloquy with the Defendant and did ascertain that the Defendant made a knowledgeable, intelligent, and a voluntary plea and that a factual basis exists sufficient to substantiate said plea.

Defendant is pronounced and declared ***GUILTY*** in:

1. Case Number CC 2005-162 of Unauthorized Use of a Motor Vehicle in violation of Title 13A-8-11 of the Code of Alabama, 1975; and,
2. Case Numbers CC 2005-163 and CC 2005-164, **in each case,** of Assault Second Degree, **each** in violation of Title 13A-6-21 of the Code of Alabama, 1975;

all against the peace and dignity of the State of Alabama.

Defendant was then:

(1) Afforded an opportunity to make a statement in Defendant's own behalf before sentencing and was further asked if Defendant had anything to say as to why the sentence of the law should not be imposed;

(2) Given an opportunity to present evidence as to any matter probative in the issue of sentence and/or facts in mitigation of any penalty that is to be imposed.

The State was then afforded an opportunity to present evidence as to any matter probative to the issue of sentence and/or facts in aggravation or mitigation of any penalty that is to be imposed.

The State offered evidence pursuant to the Habitual Felony Offender Act that the Defendant has four (4) prior felony convictions and upon offer of evidence this Court finds that the Defendant has been previously convicted of the following proper prior felony convictions: (1) Case Number CC 2001-48, Possession of Forged Instrument Second Degree, (2) Case Number CC 2001-49, Possession of Forged Instrument Second

Degree, (3) Case Number CC 2002-280, Fraudulent Use of Credit Card, and (4) Case Number CC 2002-65, Receiving Stolen Property First Degree, all in the Circuit Court of Pike County, Alabama.

After considering the arguments of the parties and any evidence presented;

IT IS ORDERED that for Defendant's conviction in Case Numbers CC 2005-162 of Unauthorized Use of a Motor Vehicle, and in Case Numbers CC 2005-163 and CC 2005-164 in each case of Assault Second Degree, Johnny Fenn is sentenced in each case to fifteen (15) years in the Penitentiary, State of Alabama. The Defendant's sentences in Case Numbers CC 2005-162, CC 2005-163 and CC 2005-164 are ***ORDERED*** to run CONCURRENT with each other.

The Defendant's sentence is suspended and the Defendant is placed on SUPERVISED PROBATION for a period of five (5) years; however, as a first condition of probation the Defendant shall serve a period of one (1) year in the custody of the Commissioner of the Department of Corrections.

The Defendant is given credit for any time the Defendant has already served while awaiting trial and/or disposition in this case. The Defendant is given credit for time served in these cases.

As an additional part of Defendant's sentence, the Defendant is hereby ***ORDERED*** to pay **in each case** to the Circuit Clerk of this Court the costs of Court, the Defendant is ***ORDERED*** to pay **in each case** $50.00 to the Clerk of the Court, which sum is to be distributed by the Clerk to the Alabama Crime Victims Compensation and is ***ORDERED*** to reimburse the State for any attorney fees the State is caused to pay out due to the Defendant's representation herein. The State of Alabama has sixty (60) days to file with the Court, with a copy being sent to Defendant's Attorney, any amount of restitution, etc., to be paid by the Defendant in each case. The Defendant shall have thirty (30) days to file any objections to the amount of restitution, filed by the State. If an objection is filed by the Defendant, this Court will set a restitution hearing to determine what amount of restitution, if any, the Defendant shall be ordered to pay. If the Defendant does not file any objection to the amount of restitution filed by the State, then that shall be the amount of restitution that the Defendant shall pay and payment of said term of Defendant's probation.

If the State fails to file any amount of restitution within sixty (60) days, then in that case, the Defendant shall not be required to pay restitution as a part of this sentence and probation.

The payment of the above is to be made in the heretofore-listed order and is to be made a condition of probation, parole, or other early release. The Defendant as a specific term of his probation, shall upon release from incarceration, establish with his Probation Officer a specific monthly amount to be paid towards Court ordered monies until paid in full. If the Defendant fails to make any monthly payment within ten (10) days of the date due, then the entire unpaid balance immediately becomes due and payable.

Should the Defendant have any income while incarcerated in an Alabama Penitentiary or Correctional Facility, the Alabama Department of Corrections is ***ORDERED*** to pay twenty-five percent (25%) of Defendants said funds (which funds of the Defendant the Department may come into possession of) to the Clerk of the Court, Pike County, Alabama, as is allowed by law and said Department is ***ORDERED*** to pay same to the Clerk of the Court until such time as all restitution, costs, and above ordered fees are paid in full.

This the 26th day of April 2005.

Robert W Barr

ROBERT W. BARR
Circuit Judge

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APR 2005
Brenda [illegible]
Court Clerk
Pike Co., Ala.

...enda Meadows Peacock, Clerk & Register of the Circuit ...urt for Pike County, Alabama, do hereby certify that the foregoing is a true and correct copy of the original document in the above stated cause, which is on file and enrolled in my office. Witness my hand and seal this the 12 day of July, 2005

Brenda M Peacock
Circuit Court Clerk